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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Access Charge Reform,	)	CC Docket Nos. 96-262, 94-1
Price Cap Performance Review	)	91-213, 95-72
for Local Exchange Carriers,	)	
Transport Rate Structure and Pricing	)	
End User Common Line Charge	)	

TO: The Commission

COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY, PACIFIC BELL, AND NEVADA BELL

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September 25, 1997

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COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY, PACIFIC BELL, AND NEVADA BELL

Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell (collectively, the "SBC LECs") submit these Comments in response to the Second Further Notice of Proposed Rulemaking, FCC 97-317, released by the Commission in the captioned proceeding on September 4, 1997 ("SFNPRM"). This proceeding was instituted to address whether a "presubscribed interexchange carrier charge" (or "PICC") should be paid by Lifeline customers who have voluntarily elected to receive toll blocking, or whether it should be paid from the federal universal service fund. By filing these Comments, none of the SBC LECs or any affiliate waives, prejudices, or otherwise adversely affects any appeal or other recourse from any Commission proceeding, including those included within the caption of this proceeding.

The SBC LECs Support the Commission's Tentative Conclusion

The Commission has tentatively concluded that the PICC should not be paid by Lifeline customers voluntarily subscribing to toll blocking.[1] As the Commission notes, customers of price cap incumbent local exchange carriers ("LECs") who do not have a pre-subscribed carrier are to be directly charged the PICC. Where a price cap LEC acts as an "eligible telecommunications carrier"[2] (hereinafter an "eligible price cap LEC"), its Lifeline customers who have toll blocking are still able to access interstate services (*e.g.*, interstate 800 calls, prepaid calling cards, receive calls). Like any other customer, those Lifeline customers should then be directly charged the PICC consistent with the Access Charge Reform Order[3] and principles of cost causation.

In expressing its concern that charging a PICC to Lifeline customers in these circumstances "may be inconsistent with our universal service goals," SFNPRM, ¶ 4, the Commission has apparently tentatively concluded that the proposal is needed to "preserve and advance universal service." 47 U.S.C. § 254(d).[4] The SBC LECs support the Commission's

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[1] This proposal would not affect charging the PICC when a Lifeline customer instead selects toll control.

[2] *See* 47 U.S.C. § 214(e).

[3] *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges*, CC Docket Nos. 96-262, 94-1, 91-213, and 95-72, First Report and Order, FCC 97-158 (released May 8, 1997) ("Access Charge Reform Order").

[4] The only possible basis for the Commission's proposal is that charging the PICC to a Lifeline customer with toll blocking is needed to "preserve and advance universal service." The Commission has already concluded that the Commission-required price cap LEC access rate

tentative conclusion that, based upon universal service concerns, the PICC directly chargeable to the Lifeline customer should be paid from the low-income portion of the federal universal service fund. Section 254 and its implementation require recovery of any such payment in a competitively neutral manner through contributions from all providers of interstate telecommunications.[5]

At the same time, the SBC LECs are assuming that the Commission's proposal will not be included in the calculation of any Lifeline customer's federal benefit. Stated another way, the PICC offset would not affect the maximum $7.00 Lifeline benefit established in 47 C.F.R. § 54.403, but would be in addition to that amount. To take an example, if a State has established an intrastate Lifeline benefit of $3.50, the customer of an eligible price cap LEC who participates in Lifeline and has elected blocking will get a $10.50/month reduction in his or her total universal service charges ($7.00 federal and $3.50 State). The price cap LEC will receive $7.53/month from the federal universal service fund (assuming its PICC rate is at the first year cap of $.53/month). Making the PICC offset subject to additional funding ensures that Lifeline customers in all States will continue to be eligible for a potential federal Lifeline benefit up to

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structure -- including charging end-users the PICC when subject to toll blocking -- is lawful and will ensure that the PICCs are "just and reasonable" (notwithstanding the fact that the Access Charge Reform Order is on appeal, and price cap LECs' tariff filings are under investigation). Absent a Commission decision based upon the policy of preserving and advancing universal service, there is no basis for prohibiting price cap LECs from charging the PICC to any end-user with toll blocking.

[5] 47 U.S.C. § 254(d); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157 (released May 8, 1997) ("Universal Service Order"), at ¶¶ 775-800; and 47 C.F.R. § 54.703(c).

the $7.00 maximum irrespective of how the PICC may change from year to year in accordance with the applicable interstate access rules. Such treatment would also be easy to administer and consistent with the universal service goals of the Commission.

In contrast, including the PICC charge in the maximum federal benefit would effectively reduce the amount of intrastate charges that would be offset in realizing the maximum federal benefit.[6] Using the same example as above, the Lifeline customer with toll blocking would see an offset of only $6.47 against their intrastate charges, whereas a Lifeline customer without toll blocking would see an offset of $7.00 against their intrastate charges.[7] As the PICC charges on primary residence lines change over time, the price cap LECs would need to readjust the State charges to offset the changing interstate PICC. To avoid these complications, the Commission should establish any PICC offset as an additional benefit, so as not to be dependent upon the need for any State action before the Lifeline customer can realize the full benefit of the Commission's program.

Finally, the Commission should avoid labeling this PICC treatment as a "waiver." The PICC is not truly waived -- the interstate access charge structure of the price cap LECs remains the same, and the PICC is still recovered. The only change in these situations is the effective payee of the PICC. Any possible waiver would thus be limited solely to those Commission rules

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[6] To receive the federal support above $3.50, the State needs to approve a corresponding reduction in the portion of the intrastate rate paid by the Lifeline customer. Universal Service Order, ¶351.

[7] Both the $6.47 and the $7.00 include the $3.50 funded by the State, but not the baseline $3.50 federal Lifeline benefit.

that direct price cap LECs to charge either the presubscribed interexchange carrier or the end-user. In all other respects, the PICC remains unaffected. Accordingly, any rule adopted as a result of the SFNPRM should appear within Part 54, Subpart E - "Universal Service Support for Low Income Consumers," and most appropriately in § 54.403. Any support received under such a rule would then be offset against the applicable PICC to net zero.

The Commission Should Not Make the Proposed Low-Income Support Portable, or Else Not Target PICCs By Name

Pursuant to the Access Charge Reform Order, the PICC rate element is only applicable to price cap LECs, and is part of the mandated manner in which those LECs are allowed to recover their separated common line costs. No other potential eligible carrier has this mandated structure. They are instead free to recover their costs, structure their rates, and set their prices as they decide. The SBC LECs believe that many, if not all, other eligible telecommunications carriers will recover their costs through rates and rate structures that do not use a PICC. Accordingly, federal universal service funding to recover the PICC should only be available to eligible price cap LECs.

In the alternative, if the Commission determines that the proposed federal support must be made equally available and portable to any eligible carrier, the Commission should not adopt a rule that targets and mentions the PICC by name. The SBC LECs suggest that any rule to address the Commission's concern be written to limit this additional universal service support only to those eligible carriers that impose a charge on the presubscribed interexchange carrier, and which charge is re-directed to an end-user customer generally when she or he has toll blocking. That additional support would be equal to the lesser of such charge or the then-current PICC cap (initially set by the Commission at $.53/month).

Such an alternative structure would help ensure the results apparently being sought by the Commission -- (i) a Lifeline customer's total charge for universal service would not increase as a result of toll blocking; and (ii) the eligible carrier is permitted to charge consistent with its applicable rate structure and, hence, be allowed the associated cost recovery. The proposed structure also avoids an untenable result -- an eligible carrier getting a windfall. If an eligible carrier does not have a PICC-equivalent charge, it has elected to recover its costs through other means and does not need additional support in toll blocking situations. An illustration demonstrates that effect. Take an eligible carrier that is recovering all of its common line or equivalent costs directly from its end-user customers in the charges for basic service. Providing the additional support to that eligible carrier would provide a new source of revenue wholly unrelated to the need for any cost recovery.

At the same time, the alternative structure limits the additional support consistent with the Commission's proposal, as well as avoids incentives for eligible carriers to structure rates to take undue advantage of this additional support. Competitive neutrality is also assured in that the price paid by the Lifeline customer does not change as a result of electing toll blocking no matter the regulatory status of the eligible carrier.

For similar reasons, the Commission should further limit this additional support to only those eligible carriers providing equal access to interstate interexchange carriers. Price cap LECs are subject to equal access requirements, have strict accounting rules, affiliate transaction rules, and tariffing requirements, all of which ensure that the PICC is just and reasonable. Those price cap LECs that are Bell Operating Companies also have strict structural separation requirements for affiliated interLATA providers. In contrast, most other carriers are not at all regulated in these respects. If an eligible carrier funnels all of its interstate interexchange business to itself or an affiliate, it could easily structure its "access rates" to take advantage of this additional support even though not associated with cost recovery. An equal access requirement would help ensure that the PICC-equivalent charge is a true access charge, and not an intracompany transfer masquerading as an access charge.

The Amount of Support to Offset PICCs Is Likely to Be Minimal

The Commission sought an estimate of the amount of funds necessary to support all of the waived PICCs charges for Lifeline customers who elect toll blocking. Currently only about 700 Lifeline customers of Southwestern Bell Telephone (less than 1% of its total Lifeline customers) and fewer than 200 Nevada Bell Lifeline customers subscribe to toll blocking.

Even with the Commission's mandatory waiver of any charge for Lifeline customers voluntarily subscribing to toll blocking, the SBC LECs expect that the percent of Lifeline customers voluntarily subscribing to toll blocking will not increase dramatically. In light of the inability to disconnect a Lifeline customer's local service for failure to pay toll charges, that customer's motivation to subscribe voluntarily to toll blocking is greatly diminished. Perhaps the most significant factor that influences a customer's decision to subscribe to toll blocking is the inability to keep the toll usage billed to his or her line at an affordable levels. Toll blocking provides a customer with a measure of assurance that toll charges will not jeopardize his or her local service. Prohibiting an eligible telecommunications carrier from disconnecting a Lifeline customer's local service for non-payment of toll charges removes this concern as a reason to elect toll blocking.

Any Rule Adopted By the Commission Should Not Be Limited to a Voluntary Election of Toll Blocking

The relatively few Lifeline customers who have subscribed to toll blocking offered by the SBC LECs may also reflect that the Commission's proposal could have a relatively minor effect on subscription level. However, there is a clear need to broaden the Commission's proposal to cover situations where toll blocking is placed on a Lifeline customer's line without consent. Although prohibiting disconnection of local service for failure to pay toll charges, the Universal Service Order does not prohibit an eligible telecommunications carrier from disconnecting toll service -- through toll blocking or otherwise -- when a Lifeline customer fails to pay her or his toll bill.[8] If that action is taken, the Lifeline customer would then be charged the PICC directly by the price cap LEC - the result that the Commission seeks to avoid with the SFNPRM. There is no universal service justification for such disparate treatment.

Not providing the PICC offset for involuntary blocking might have a more distinct negative effect on universal service. For example Pacific Bell, apparently the carrier with the largest number of Lifeline customers at approximately 2.4 million, generally experiences

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[8] Universal Service Order, ¶ 394.

collection problems with approximately 15% of its Lifeline customers (although the percentage at the end of a recent month was 20%). If the vast majority of those problems are caused as a result of toll charges as the Commission has generally concluded, any involuntary blocking by Pacific Bell would affect about 400,000 Lifeline customers at any given time, who would thereafter be subject to the PICC. To avoid the identical financial situation in those circumstances that the Commission is targeting with its voluntary toll blocking proposal -- a Lifeline customer paying the PICC -- the Commission should include "involuntary" toll blocking as well. Such an expansion would also avoid difficult factual determinations of what constitutes a "voluntary" election, and would be consistent with the Commission's purpose of ensuring that universal service stays affordable for Lifeline customers with toll blocking.

If the Commission maintains the voluntary/involuntary distinction it has drawn, the Commission should affirmatively state that eligible carriers can disconnect a Lifeline customer's universal service for failure to pay any directly charged PICC or PICC-equivalent. By doing so, the Commission will create an incentive for Lifeline customers to elect to subscribe voluntarily to toll blocking, and help assure cost recovery for all eligible carriers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Brenda K. Dinan, hereby certify that the Comments of Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell on Docket 96-45 and 96-262, 94-1, 91-213, 95-72, has been served September 25, 1997, to the Parties of Record.

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September 25, 1997

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